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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

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A N A C T

RELATING TO INSURANCE – INSURANCE COVERAGE FOR MENTAL ILLNESS AND
SUBSTANCE ABUSE

Introduced By: Representative Stephen M. Casey

Date Introduced: March 29, 2023

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-38.2-2 of the General Laws in Chapter 27-38.2 entitled "Insurance
2 Coverage for Mental Illness and Substance Abuse" is hereby amended to read as follows:

3 **27-38.2-2. Definitions.**

4 For the purposes of this chapter, the following words and terms have the following
5 meanings:

6 (1) "Financial requirements" means deductibles, copayments, coinsurance, or out-of-
7 pocket maximums.

8 (2) "Group health plan" means an employee welfare benefit plan as defined in 29 U.S.C. §
9 1002(1) to the extent that the plan provides health benefits to employees or their dependents directly
10 or through insurance, reimbursement, or otherwise. For purposes of this chapter, a group health
11 plan shall not include a plan that provides health benefits directly to employees or their dependents,
12 except in the case of a plan provided by the state or an instrumentality of the state.

13 (3) "Health insurance plan" means health insurance coverage offered, delivered, issued for
14 delivery, or renewed by a health insurer.

15 (4) "Health insurers" means all persons, firms, corporations, or other organizations offering
16 and assuring health services on a prepaid or primarily expense-incurred basis, including but not
17 limited to, policies of accident or sickness insurance, as defined by chapter 18 of this title; nonprofit
18 hospital or medical service plans, whether organized under chapter 19 or 20 of this title or under

1 any public law or by special act of the general assembly; health maintenance organizations, or any
2 other entity that insures or reimburses for diagnostic, therapeutic, or preventive services to a
3 determined population on the basis of a periodic premium. Provided, this chapter does not apply to
4 insurance coverage providing benefits for:

- 5 (i) Hospital confinement indemnity;
- 6 (ii) Disability income;
- 7 (iii) Accident only;
- 8 (iv) Long-term care;
- 9 (v) Medicare supplement;
- 10 (vi) Limited benefit health;
- 11 (vii) Specific disease indemnity;
- 12 (viii) Sickness or bodily injury or death by accident or both; and
- 13 (ix) Other limited benefit policies.

14 (5) "Mental health or substance use disorder" means any mental disorder and substance
15 use disorder that is listed in the most recent revised publication or the most updated volume of
16 either the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American
17 Psychiatric Association or the International Classification of Disease Manual (ICO) published by
18 the World Health Organization; provided, that tobacco and caffeine are excluded from the
19 definition of "substance" for the purposes of this chapter.

20 (6) "Non-quantitative treatment limitations" means: (i) Medical management standards;
21 (ii) Formulary design and protocols; (iii) Network tier design; (iv) Standards for provider admission
22 to participate in a network; (v) Reimbursement rates and methods for determining usual, customary,
23 and reasonable charges; and (vi) Other criteria that limit scope or duration of coverage for services
24 in the treatment of mental health and substance use disorders, including restrictions based on
25 geographic location, facility type, and provider specialty.

26 (7) "Quantitative treatment limitations" means numerical limits on coverage for the
27 treatment of mental health and substance use disorders based on the frequency of treatment, number
28 of visits, days of coverage, days in a waiting period, or other similar limits on the scope or duration
29 of treatment.

30 (8) "Step therapy protocol" means a protocol that establishes a specific sequence in which
31 prescription drugs for a specified medical condition are medically necessary for a particular
32 enrollee and are covered under a pharmacy or medical benefit by a carrier, including self-
33 administered and physician-administered drugs.

34 SECTION 2. Chapter 27-38.2 of the General Laws entitled "Insurance Coverage for Mental

1 Illness and Substance Abuse" is hereby amended by adding thereto the following section:

2 **27-38.2-7. Prohibition of prior authorization or step therapy protocol.**

3 (a) A group health plan, an individual or group health insurance plan, as defined under
4 chapters 18, 19, 20, and 41 of title 27, the Rhode Island medical assistance program, as defined
5 under chapter 8 of title 40, and any contract between the Rhode Island medical assistance program
6 and a managed care organization shall not require prior authorization or a step therapy protocol for
7 the prescription of a nonpreferred medication on their drug formulary and used to assess or treat an
8 enrollee diagnosed with a bipolar disorder, schizophrenia or schizotypal disorder, major depressive
9 disorder, or post-traumatic stress disorder as defined by the American Psychiatric Association's
10 Diagnostic and Statistical Manual of Mental Disorders, fifth edition.

11 (b) The provisions of subsection (a) of this section does not affect clinical prior
12 authorization edits to preferred and nonpreferred prescriptions of medications to treat serious
13 mental illness

14 (c) If it determines that authorization from a federal agency if necessary for the
15 implementation of this section, the executive office of health and human services is authorized to
16 seek such state plan amendment and may delay implementing the provisions until the authorization
17 is granted.

18 (d) The Rhode Island medical assistance program, as defined under chapter 8 of title 40,
19 shall require through amending current and future medical assistance managed care contracts, that
20 the managed care organizations meet the provisions of this section.

21 (e) This section does not prevent a group health plan, an individual or group health
22 insurance plan, as defined under chapters 18, 19, 20, and 41 of title 27, the Rhode Island medical
23 assistance program, as defined under chapter 8 of title 40, and any contract between the Rhode
24 Island medical assistance program and a managed care organization from denying an exception for
25 a drug that has been removed from the market due to safety concerns from the federal Food and
26 Drug Administration.

27 SECTION 3. This act shall take effect upon passage and applies to all policies, contracts,
28 and certificates executed, delivered, issued for delivery, continued or renewed in this state on or
29 after January 1, 2024.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO INSURANCE – INSURANCE COVERAGE FOR MENTAL ILLNESS AND
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1 This act would define step therapy protocol and prohibit a group health plan, an individual
2 or group health insurance plan, the Rhode Island medical assistance program, and any contract
3 between the Rhode Island medical assistance program and a managed care organization from
4 requiring prior authorization or a step therapy protocol for the prescription of a nonpreferred
5 medication on their drug formulary and used to assess or treat an enrollee diagnosed with a bipolar
6 disorder, schizophrenia or schizotypal disorder, major depressive disorder, or post-traumatic stress
7 disorder as defined by the American Psychiatric Association’s Diagnostic and Statistical Manual
8 of Mental Disorders, fifth edition.

9 This act would take effect upon passage and would apply to all policies, contracts, and
10 plans executed, delivered, issued for delivery, continued or renewed in this state on or after January
11 1, 2024.

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